

IN THE UNITED STATES DISTRICT FOR
THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CONNOR and AMANDA
ELLIOTT, individually and as next
friend of N.E., their minor child,

Plaintiffs

vs.

UNITED STATES OF AMERICA,

Defendant

NO. 1:19-CV-00427-LY

UNOPPOSED PLAINTIFFS' MOTION TO APPROVE
SETTLEMENT

Plaintiffs move the Court to approve settlement in the above styled matter. The Plaintiffs would show that this Court has the legal and factual basis to approve the settlement agreed to by the parties.

1. ***Legal Basis***

First, the Court has the legal basis to approve the settlement between the parties. Federal courts routinely approve settlements in FTCA cases involving minors. *Kile v. United States*, 915 F.3d 682, 684–85 (10th Cir. 2019), as corrected (Feb. 15, 2019); *Baker v. Chevron USA, Inc.*, No. 105-CV-227, 2007 WL 315346, at *4 (S.D. Ohio Jan. 30, 2007); *Hernandez v. United States*, No. 3:19-CV-1457-AHG, 2020 WL 6044079, at *5 (S.D. Cal. Oct. 13, 2020); *Shaw v. United States*, No. CIV 17-0147 JB/LF, 2018 WL 3598513, at *10

(D.N.M. July 26, 2018). Federal courts approve such settlements by first ensuring that it is in the best interests of the minor. *Id.* See also *Reo v. United States Postal Service*, 98 F.3d 73, 76 (3d Cir.1996); *Goodman v. United States*, No. CIV.A. 306CV-201-H, 2007 WL 1652027, at *1 (W.D. Ky. June 1, 2007); *Meyers v. United States*, No. 6:13-CV-1555-ORL, 2014 WL 5038585, at *3–4 (M.D. Fla. Sept. 29, 2014); *A. M. L. v. Cernaianu*, No. LACV1206082JAKRZX, 2014 WL 12588992, at *3 (C.D. Cal. Apr. 1, 2014). The Stipulation for Compromise Settlement Agreement is attached as Exhibit 1. The Reversionary trust is attached as Exhibit 2.

2. Factual Basis

Second, approving the settlement is in the best interests of N.E. Here, the Court-appointed Guardian Ad Litem authored his report after reviewing the case file. The Parties incorporate by reference the Guardian Ad Litem's report which recommends approval of the proposed settlement (ECF No. 47).

Currently, N.E.'s parents manage and support him. Given N.E.'s injuries, the Guardian Ad Litem, and the Elliott Family believe that approving the settlement is in the best interests of N.E. Accordingly, the Plaintiffs have attached as an exhibit to this motion an order that the Plaintiffs request the Court enter.

Respectfully Submitted,

/s/ Jamal K. Alsaffar

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CERTIFICATE OF SERVICE

By my signature above, I certify that a copy of this pleading, Unopposed Plaintiffs' Motion to Approve Settlement, has been sent to the following on July 15, 2021 via the Court's CM/ECF notice system.

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